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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

PATENT  
APPLICATION

REQUEST FOR FILE WRAPPER CONTINUING APPLICATION UNDER 37 CFR 1.62

Page 1 of 4

(RULE 62)

For Design or Utility Applications

07 551644

BOX FWC

The Commissioner of Patents  
and Trademarks  
Washington, D.C. 20231

Sir:

This is a RULE 62 Request for filing a

Prior Application:

Group Art Unit: 158

Examiner: P. Prater

Atty. Dkt.: 62748 / 87 217 PH

new M# / Client Ref.

(Our Deposit Account No. 03-3975

(Our Order No. 326 / 62748

C# / new M#

Date: July 12, 1990

[ ] divisional

[ x] continuation (any restriction/election in parent [ ] is [ ] is not carried over)

[ ] continuation-in-part without new Declaration (Rule 53(d)) [ ] without fee

[ ] continuation-in-part with new Declaration attached hereto

application under Rule 62 of prior copending parent Application No. 07/268,772,

series code† + serial no.

filed on Nov. 9, 1988, entitled AZELASTINE CONTAINING MEDICAMENTS

by the following named inventor(s) who is/are [ x ] the same as, [ ] less than all of  
(see Item 17), [ ] more than (for CIP only), those named in that parent application:

1. Inventor Helmut Hettche German  
First Middle Initial Family Name Citizenship

Residence (City) Dietzenbach (State/Foreign Country) Germany DE X

Post Office Address Martinstrasse 23, D-6057 Dietzenbach

(include Zip Code) Federal Republic of Germany

2. Inventor \_\_\_\_\_  
First Middle Initial Family Name Citizenship

Residence (City) \_\_\_\_\_ (State/Foreign Country) \_\_\_\_\_

Post Office Address \_\_\_\_\_

(include Zip Code) \_\_\_\_\_

3. Inventor \_\_\_\_\_  
First Middle Initial Family Name Citizenship

Residence (City) \_\_\_\_\_ (State/Foreign Country) \_\_\_\_\_

Post Office Address \_\_\_\_\_

(include Zip Code) \_\_\_\_\_

**NOTE: FOR ADDITIONAL INVENTORS, check box [ ] and attach sheet with same information for each inventor starting with inventor No. 4 and number new page 1A.**

1. [ ] The Examiner's attention is directed to both the second paragraph of guideline (2) in MPEP 609 and to the last paragraph of MPEP 2001.06(b) and to the submission in the prior application of the Information Disclosure Statement and document copies filed on \_\_\_\_\_.

2. Requirement of Rule 62: The above identified prior application in which no payment of the issue fee, abandonment, or termination of proceedings occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application. (Note: 37 CFR 1.60 (Rule 60) may be used for applications where the prior application is not to be abandoned and must be used if issue fee already paid in parent.)

3.  Priority is claimed under 35 U.S.C. 119/365 based on filing in Germany (country) of:

<u>Application No.</u>	<u>Filing Date</u>	<u>Application No.</u>	<u>Filing Date</u>
1. P3738681.6	Nov. 13, 1987	4. _____	_____
2. _____	_____	5. _____	_____
3. _____	_____	6. _____	_____

- a.  (No.) Certified copy/copies attached.
- b.  Certified copy/copies previously filed on Nov. 9, 1988 in prior U.S. Application No. 07/268,773 filed Nov. 9, 1988.
- c.  Certified copy/copies filed during International stage of PCT/ /.
- d.  Priority is also claimed from PCT/ / filed \_\_\_\_\_.

4.  The prior application is assigned of record to Asta Pharma AG \_\_\_\_\_.

5.  Attached is an Assignment to \_\_\_\_\_.

6.  The power of attorney in the prior application is to Cushman, Darby & Cushman, Lawrence A. Hymo, Reg. No. 19,057 (Name, Reg. No.) the address of whom is as in item 8.

7.  Recognize as associate attorney \_\_\_\_\_.

(Name and Reg. No.; Address as in item 8 unless otherwise indicated)

8. Address all future communications to Cushman, Darby & Cushman, Eleventh Floor, 1615 L Street, N.W., Washington, D.C. 20036-5601.

9. Amend the specification by inserting before the first line the sentence: - This is a continuation-in-part (CIP)  continuation of Application No. 07/268,772, filed Nov. 9, 1988, now abandoned, which was abandoned upon the filing hereof.

10.  27 (No.) Verified Statement(s) establishing "small entity" status under Rules 9 and

a.  filed in above prior application (and hence applicable hereto)  
b.  attached.

11. Petition to extend the life of the above prior application to at least the date hereof

NOTE: One box  is being concurrently filed in that prior application (use Form CDC-111).

must be  was previously filed in that prior application (check length of prior extension).

X'd  is not necessary for copendency (double check before X'ing this box).

12. Requirements of Rule 62: It is understood that section under 35 U.S.C. 122 is hereby waived to the extent that if information or access is available to any one of the applications in the file wrapper of a 37 CFR 1.62 application, be it either this application or a prior application in the same file wrapper, the Patent and Trademark Office may provide similar information or access to all the other applications in the same file wrapper.

13. [ ] Please enter the amendment previously filed on \_\_\_\_\_ but unentered in the above prior application.

14. [ ] Attached: \_\_\_\_\_ sheet(s) per set of drawing of Fig(s) \_\_\_\_\_:  
 1 set informal;  formal of size: [ ] A4 [ ] 13" [ ] 14"

15. [ ] **PRELIMINARY AMENDMENT** to be entered before fee calculation (Do not make amendments here except cancellation of whole claims or multiple dependencies for purpose of reducing the filing fee per MPEP §§ 506 and 607; do not cancel all claims.):

16. [ ] Attached is a Rule 103(a) Petition to Suspend Action

17. Petition is hereby made requesting deletion as inventor(s) of the following who is/are not inventor(s) of the invention being claimed in this Rule 62 application:

1. \_\_\_\_\_ 2. \_\_\_\_\_  
 3. \_\_\_\_\_ 4. \_\_\_\_\_

18. [ ] This Rule 62 application is a continuation-in-part which discloses and claims additional matter.

a. [ ] New Declaration is attached.  
 b. [ ] This application is also filed under Rule 53(d) (without a Declaration) and hence filing fee is not enclosed.

#### FILING FEE

#### THE FOLLOWING FILING FEE IS BASED ON THE CLAIMS EXISTING IN THE PRIOR APPLICATION AS AMENDED AT 13 AND 15 ABOVE

19. Basic Filing Fee (enter \$370.00 unless Design Appln. in which case enter \$150.00) \$ 370.00

20. Total Effective Claims 18 minus 20 = \* 0 x \$12.00 =----- + -0-

21. Independent Claims 7 minus 3 = \* 4 x \$36.00 =----- + 144.00  
 \*If answer is zero or less, enter "0"

22. If any proper (ignore improper) multiple dependent claim is present, add \$120.00 + \_\_\_\_\_

23. Subtotal \$ 514.00

24. If "small entity" status box 10 above is X'd, enter half (1/2) of subtotal and subtract - \_\_\_\_\_

25. **TOTAL FILING FEE \$ 514.00**

26. If "assignment" box 5 above is X'd,-----add recording fee (\$8.00) + \_\_\_\_\_

27. If "petition" box 16 above is X'd,-----add petition fee (\$120.00) + \_\_\_\_\_

28. **FEE ATTACHED \$ 514.00**

29. [ ] Preliminary Amendment attached (to be entered after signing Serial No.).

30. [ ] The following PRELIMINARY AMENDMENT is to be entered after assigning Serial No.:

31. [ ] Attached:

32. **ADDITIONAL FEE CALCULATION FOR  
PRELIMINARY AMENDMENT  
PER BOXES 29/30**

	Claims remaining after amendment	Highest number previously paid for	Present Extra	Additional Fee
33. Total Effective Claims	* _____	minus ** _____	= _____ x \$12.00	= \$ _____
34. Independent Claims	* _____	minus *** _____	= _____ x \$36.00	= + _____
35. If amendment enters proper multiple dependent claim(s) into this application for <u>first time</u> , add \$120.00 (per application)	- - - - -	- - - - -	- - - - -	+ _____
36.			Subtotal	\$ _____
37. If "small entity" box 10 above is X'd, enter half (1/2) of subtotal - - - and <u>subtract</u> -				
38.			ADDITIONAL FEE	\$ _____
39.			plus FEE from item 26 on page 3	+ <u>514.00</u>
40.			<b>TOTAL FEE ATTACHED</b>	<b>\$ 514.00</b>

41. \*If the entry in this space is less than entry in the next space, the "Present Extra" result is "0".

42. \*\*If the "Highest number previously paid for" (see item 20) is less than 20, write "20" in this space.

43. \*\*\*If the "Highest number previously paid for" (see item 21) is less than 3, write "3" in this space.

44. The Commissioner is hereby authorized to charge any fee specifically authorized hereafter, or any missing or insufficient fee(s) filed or asserted to be filed or which should have been filed herewith or with any paper filed hereafter, and which may be required under Rules 16-18 (missing or insufficient fee only) now or hereafter relative to this application and the resulting Official document under Rule 20, or credit any overpayment, to our deposit Account/Order Nos. shown in the heading hereof for which purpose a duplicate copy of this sheet is attached. This statement does not authorize charge of the issue fee until/unless an issue fee transmittal form is filed.

1615 L Street N.W.  
Eleventh Floor  
Washington, D.C. 20036-5601  
Tel: 861-3000  
Atty/Sec: LAH/dah

CUSHMAN, DARBY & CUSHMAN  
By Atty: Lawrence A. Hymo Reg. No. 19,057

Sig: LAWRENCE A. HYMO Tel.: 861-3015

NOTE: File this Request in duplicate with 2 post card receipts (CDC-103) & attachments if any.

2. Requirement of Rule 60. The above identified prior application in which no payment of the issue fee, abandonment, or termination of proceedings has occurred, is hereby expressly abandoned as of the filing date of this new application. Please use all the contents of the prior application file wrapper, including the drawings, as the basic papers for the new application. (Note: 37 CFR 1.60 (Rule 60) may be used for applications where the prior application is not to be abandoned and must be used if issue fee already paid in parent.)

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